

## **REMARKS**

Claims 58-60, 62-68, 70-78, 80-82, 84-85, 87-89, 91 and 93-94 are pending in the present application. Claim 68 has been amended and new claims 93 and 94 have been added as a result of this response. No claims have been canceled. Applicants respectfully submit that independent claims 58, 67, 72, 76, 80, 85, 87 and 91 and dependent claims 59-60, 62-66, 68, 70-71, 73-75, 77-78, 81-82, 84, 88-89 and 93-94 stand in condition for allowance.

### **I. Allowable Subject Matter**

Applicants appreciate the Examiner's indication that claims 58-60, 62-66, 72-78, 80-82, 84 and 87-89 have been allowed.

Also, Applicants appreciate the Examiner's indication that claim 70 would be allowable if rewritten in independent form including all of the intervening claims. However, dependent claim 70 has not been rewritten in independent form at this time, since it is believed that independent claim 67, from which this claim depends, is allowable.

### **II. Claim Rejections Under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 67-68, 71, 85 and 91 under 35 U.S.C. 102(b) as anticipated by or, in the alternative under 35 U.S.C. § 103(a) as being unpatentable as obvious over Redi (U.S. Patent 6,556,582). Applicants respectfully traverse the rejection.

Applicants submit that in the Office Action of March 17, 2008, the Examiner indicated claims 68, 86 and 92 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As a result of the Response dated July 14, 2008, dependent claims 68, 86 and 92 were incorporated into independent claims 67, 85 and 91 respectively.

The Examiner has withdrawn the allowability of claims 67, 85 and 91 in the Office Action of October 15, 2008, under 35 U.S.C. 102(b) as anticipated by, or in the alternative under 35 U.S.C. § 103(a) as being unpatentable as obvious over, Redi (U.S. Patent 6,556,582). Redi was previously considered in the Office Action of March 17, 2008, as a basis for rejection of the independent claims 67, 85 and 91. Absent a clear error or knowledge of other prior art, full faith

and credit should be given to the previously allowed claims and their allowability should still be given weight in the outstanding action.

Accordingly, Applicants submit that claims 67, 85 and 91 are in condition for allowance. Additionally, Applicants submit that claims 68 and 71 are allowable by virtue of their dependence on claim 67.

In addition to the above arguments, Applicants provide the following arguments addressing the asserted rejection.

*Redi*

Redi describes a system for collision avoidance in mobile multi-hop packet radio networks. The RTS packets of Redi may include quality of service (QoS) or priority status which permit the destination nodes to route data packets in accordance with the priority/QoS service requirements of sending nodes (Column 4, lines 43-51). The receiving node may determine if the “packet that is to be sent is *an allowable* priority status... [i]f the priority/QoS bits sent in the RTS packet indicate that the packet is not of an allowable type, then the receiving node sends an NCTS packet with a flag set to indicate that the packet is unallowable [step 630]” (Column 7, lines 2-10).

Figure 6 of Redi provides a flow chart in which at steps 615 and 625 it is determined if the RTS packet including priority bits is discretely allowable or unallowable. In Redi, if an RTS packet has a priority that is unallowable, no communication in response is sent to the sending node with the exception of possibly an indication (NCTS) to notify the node that the RTS packet is unallowable. Figure 6 does not disclose a system in which packets will be sent based on a priority in which the packet with the highest priority is sent first, rather it only discloses that RTS packets will be determined if they are allowable or unallowable.

Figure 7 of Redi discloses communication within the system where an RTS (720) is received when node 125 is busy (while node 125 is sending a data packet) and an NCTS (725) is sent to Node 125 indicating the RTS (720) was unallowable. Only after the acknowledge message (730) has been sent to node 120, does another RTS message, RTS (735) arrive at node 125. Therefore, Figure 7 does not disclose receiving more than one RTS message during a time when

node 125 is busy and subsequently sending responses in descending order of priority to other nodes.

*Comments*

Redi fails to teach or disclose a radio terminal employing carrier-sense-multiple-access including “an RTR-transmitting unit that transmits a request-to-receive (RTR) frame to the base station after the transmission-suspend-period has elapsed wherein when the RTS-receiving unit receives a *plurality* of RTS frames from a *plurality* of base stations or from a *plurality* of other radio terminals during the transmission-suspend-period, the RTR-transmitting unit transmits the RTR frame to the base stations or to the other radio terminals sequentially in descending order of priority” (Claim 67). Redi also fails to teach or disclose a base station employing carrier-sense-multiple-access including “an RTR-transmitting unit that transmits a request-to-receive (RTR) frame to the radio terminal after the transmission-suspend-period has elapsed wherein when the RTS-receiving unit receives a plurality of RTS frames from a plurality of other base stations or from a plurality of radio terminals during the transmission-suspend-period, the RTR-transmitting unit transmits the RTR frame to the other base stations or to the radio terminals sequentially in descending order of priority” (Claim 85). In addition, Redi fails to teach or disclose a base station employing carrier-sense-multiple-access including “a transmitting unit that transmits a request-to-receive (RTR) frame to the another base station after the transmission-suspend-period has elapsed wherein when the receiving unit receives a plurality of frames for communication between base stations from a plurality of other base stations during the transmission-suspend-period, the transmitting unit transmits the RTR frame to the other base stations sequentially in descending order of priority” (Claim 91).

Accordingly, for at least these reasons, claims 67, 85 and 91 are clearly distinguishable over Redi or Redi in view of obviousness. Applicants submit that claims 68 and 71 are allowable at least by virtue of their dependency on claim 67. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

III. Claim 68

The Amendment of July 14, 2008, mistakenly stated that claim 69 was incorporated into claim 67. Claim 68 was actually incorporated into claim 67. Claim 68 is not being amended as a

result of this response to recite the claim language of claim 69 as presented before the Response of July 14, 2008. Applicants further submit that claim 68 is allowable since it was indicated in the Office Action of March 17, 2008, in which claim 69 was indicated as being objected to for being dependant up on a rejected base claim.

#### IV. Added Claims 93 and 94

New claims 93 and 94 are similar to claim 70 and depend respectively from claims 85 and 91, which are similar to claim 67. Since dependant claim 70 is merely objected to based on a rejected base claim and in view of the above arguments with respect to claim 67, similar claims 93 and 94 should also be in condition for allowance.

#### V. Conclusion

All matters having been addressed in view of the foregoing, Applicants respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicants' undersigned representative remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains an issue in which the Examiner feels would be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

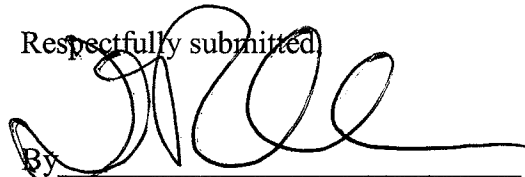
Application No. 10/552,274  
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: January 13, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to be "D. Richard Anderson", written over a horizontal line.

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